

30. Vacating Street Right-of-Way

The Town of Herndon Zoning Ordinance User Guide series provides the public with general information on land use regulations affecting activities undertaken by the public and administered by the Herndon Department of Community Development. It is not intended to be a complete statement of all applicable regulations. Individuals are encouraged to contact the Department of Community Development at 703-787-7380 for complete permitting requirements.

What is a public right-of-way?

Rights-of-way often are "owned" by the public. The most common rights-of-way are for roads, but there may also be rights-of-way designated for utilities, drainage, storm water or some other public use.

What is a right-of-way vacation?

When a right-of-way is vacated, it is returned to private ownership without any right-of-way privileges. Generally, when a right-of-way is vacated, the abutting property owners would become the owners of the property that was vacated. For example if a 50-foot right-of-way were vacated, 25 feet would go to the property owners on one side and 25 feet to the owners on the other side. The town only has the authority to vacate rights-of-way in which it has an ownership interest.

What is the process to vacate a street right-of-way?

A representative from the Department of Community Development is available to discuss the process and answer questions concerning the proposed right-of-way vacation. A list of required documentation is stated on the application form.

If more than one party owns land abutting the right-of-way proposed to be vacated, it is important that all parties communicate and coordinate their intentions with regard to the right-of-way because each owner has a right to acquire a portion of the right-of-way. All owners who desire to join in the petition for the vacation of the right-of-way become co-applicants. It may be necessary for the parties to agree upon a price for the property in the right-of-way to be vacated. At its option, the Town Council may determine to sell the property in the right-of-way at a price related to the assessed value of adjacent land.

Upon receipt of the completed application, required documentation, and the application fee, the staff in the Department of Community Development will proceed with

the review process for vacating a right-of-way. The town uses the following steps in the right-of-way vacation process:

1. The co-applicants submit an application which serves as a petition to the Town Council and includes all of the information listed on the application.
2. The Department of Community Development staff reviews the proposal and prepares a staff report for the Planning Commission.
3. The co-applicants provide required legal notice to affected persons in accordance with instructions provided by the Department of Community Development.
4. The town staff presents the application to the Planning Commission at its work session and public hearing.
5. In accordance with [§ 15.2-2232](#) of the Code of Virginia (1950), as amended, the Planning Commission will determine if the vacation is substantially in accordance with the Town's adopted Herndon 2030 Comprehensive Plan.
6. If additional property information or other documentation is needed, the Planning Commission may defer the application. With or without a favorable recommendation from the Planning Commission, the request to vacate right-of-way and its application will appear on a subsequent Town Council agenda.
7. The Town Council considers right-of-way vacation applications at Town Council public hearings, which are open to the public.
8. If additional property information or other documentation is needed, the Town Council may defer the application.

9. If approved, the Town Council takes action on the right-of-way vacation as a Resolution through a majority vote of the Town Council.
10. Once the application is approved, the co-applicants are responsible for filing plats of easement and consolidation for all adjacent properties to which parts of the right-of-way are being granted. Once the plats are approved administratively by the Town, the co-applicants are responsible for recording the plats and providing recordation information to the Town.
11. The town staff records the Ordinance of Vacation and quit claim deed, as may be directed by the Town Council.

The right-of-way vacation process usually takes three to four months to complete upon receipt of the completed application, required documentation, and the application fee.

Please note that the Legal Title to the area of a street vacated by the Town is not assured by the town. The vacation action removes only the Town's public street interest in the land. Other persons may have rights in this land. In addition, the town may retain rights by establishing public easements in the vacated area.

Need more information?

Have a question regarding required permits, the permit process, or application requirements? Call 703-787-7380 or e-mail community.development@herndon-va.gov to make an appointment to see a member of the Department of Community Development.

Have a question regarding Building Permits or construction codes? Call 703-435-6850 or e-mail buildinginspections@herndon-va.gov to make an appointment to see the Building Official.

Visit the Planning and Zoning page on the Town's web site, www.herndon-va.gov, to view the Department of Community Development web site for the Zoning Ordinance User Guide series or to access the town code. Town offices are located at the Herndon Municipal Center at 777 Lynn Street, Herndon, Virginia, 20170.

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